

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF COLORADO**

In re:

ASTRA VEDA CORPORATION,

Debtor.

Bankruptcy Case No. 25-14283-KHT

Chapter 7

**RESPONSE OF BALLISTIC BARRIER PRODUCTS INC. TO JAMES MICHAEL
DAVIS’S OBJECTION AND MOTION FOR PROTECTIVE ORDER TO BALLISTIC
BARRIER PRODUCTS INC.’S MOTION FOR RULE 2004 EXAMINATION**

Ballistic Barrier Products Inc. (“**BBP**”), a creditor and party-in-interest, submits this response (“**Response**”) to the Objection and Motion for Protective Order (the “**Motion**”) to Ballistic Barrier Products Inc.’s Motion for Rule 2004 Examination filed by James Michael Davis (ECF No. 20), and respectfully requests the Court deny the relief sought by Mr. Davis in his Motion.

I. INTRODUCTION

Through his Motion, Mr. Davis improperly attempts to limit the scope of discovery to which BBP is entitled under Rule 2004 of the Federal Rules of Bankruptcy Procedure (hereinafter referred to as “**Bankruptcy Rules**”), requests this Court to grant him relief that is unwarranted, and requests this Court to make findings that are not based on law or fact. The Motion should be denied, and BBP should be afforded full discovery to which it is entitled under Bankruptcy Rule 2004.

BBP previously filed a motion under Bankruptcy Rule 2004 for the purpose of seeking discovery from the Debtor Astra Veda Corporation (the “**Debtor**”) and Mr. Davis—as the

Debtor's Chief Executive Officer, and the one who signed the Debtor's bankruptcy schedules on the Debtor's behalf (see ECF No. 1)—related to the Debtor's financial affairs and representations made in the Debtor's bankruptcy schedules and statements. See ECF No. 12. Indeed, BBP filed its motion because, in the Debtor's schedules, the Debtor (and Mr. Davis on the Debtor's behalf) identified assets and liabilities that appear inaccurate and/or inconsistent with BBP's records. Of note, the Debtor identified debt *owed by* BBP—failing to account for the amounts the Debtor *owes to* BBP—and a 10.40 percent ownership interest in BBP (with a valuation of \$1,500,000) that is wholly inconsistent with BBP's records. See ECF Nos. 1, 12.¹ The Debtor also identified a \$2 million debt owed to Penobscot Enterprises, International Inc. (“**Penobscot**”) that apparently is now owed to Mr. Davis. See ECF Nos. 1 at 14; 20 at 1.²

Given the inconsistencies in the Debtor's bankruptcy schedules, BBP properly sought relief under Bankruptcy Rule 2004 to investigate the Debtor's assets and liabilities and to further investigate the Debtor's financial and business affairs that may affect the administration of this bankruptcy case. The Court granted BBP's motion, permitting BBP to conduct examinations of the Debtor and Mr. Davis and to request documents from each by issuing subpoenas. See ECF No. 13. BBP issued subpoenas as permitted by the Court, but it has been unable to serve them on either the Debtor or Mr. Davis and has yet to actually receive any discovery BBP requested.

Even so, Mr. Davis filed his Motion to further delay BBP's receipt of discovery to which it is entitled. Contrary to Mr. Davis's contentions, Bankruptcy Rule 2004 and the Court's order

¹ Moreover, Mr. Davis testified at the continued section 341 meeting held on October 14, 2025 that he actually does not know what the Debtor's ownership interest is in BBP because he has no documentation. Daigle Decl. ¶ 11. This inconsistency is another example of why BBP should be allowed to obtain the discovery it seeks.

² In his Motion, Mr. Davis claims that Penobscot was dissolved in October 2024, and as a result of that dissolution, all existing claims and rights were formally assigned to Mr. Davis personally. See ECF No. 20 at 1. If that were true, the Debtor (and Mr. Davis as the one who signed the schedules on the Debtor's behalf) should have identified Mr. Davis, instead of Penobscot, as the creditor. See *generally* ECF No. 1. This is yet another inconsistency warranting BBP's document requests.

gives BBP the authority to seek discovery, and the scope of discovery sought by BBP is directly related to the “acts, conduct, or property or to the liability and financial condition of the [D]ebtor, or to any matter which may affect that administration of the [D]ebtor’s estate” Fed. R. Bankr. P. 2004(b); ECF No. 15-1. Also contrary to Mr. Davis’s contentions, BBP is entitled to discovery from Mr. Davis, as he is the Debtor’s Chief Executive Officer and someone with information and documents concerning the Debtor’s affairs. Accordingly, Mr. Davis’s Motion should be denied.

II. FACTUAL BACKGROUND

1. On July 10, 2025, the Debtor filed a voluntary petition for relief under chapter 7 of the Bankruptcy Code. Harvey Sender is the duly appointed and acting chapter 7 trustee of the Debtor’s bankruptcy estate.

2. Mr. Davis is listed as the Debtor’s Chairman of the Board and CEO. ECF No. 1 at 4–5, 25. He signed Official Form 202 Declaration Under Penalty of Perjury for Non-Individual Debtors. *Id.* at 5.

3. The Debtor did not schedule BBP as a creditor. *See generally* ECF No. 1. Instead, the Debtor identified an accounts receivable owed by BBP to the Debtor in the amount of \$625,451.40. *Id.* at 8. The Debtor also identified a 10.40 percent ownership interest in BBP, with a valuation of \$1,500,000, purportedly based on an “expert.” *Id.* At the continued section 341 meeting held on October 14, 2025, however, Mr. Davis testified on the Debtor’s behalf and stated that he actually did not know how much ownership interest the Debtor had in BBP. Daigle Decl. ¶ 11.

4. Penobscot is listed as a general unsecured creditor with a claim of \$2 million based on a purported loan and deferred compensation. ECF No. 1 at 14. According to Mr. Davis,

however, Penobscot was dissolved in October 2024, and as a result of that dissolution, all existing claims and rights were assigned to Mr. Davis, personally. *See* ECF No. 20 at 1.

5. On September 23, 2025, BBP filed its *Ex Parte* Motion for Order (I) Directing the Production of Documents and (II) Authorizing Examinations of the Debtor and James Michael Davis Pursuant to Federal Rule of Bankruptcy Procedure 2004 (the “**Rule 2004 Motion**”). ECF No. 12. BBP respectfully refers the Court to the background given in its Rule 2004 Motion, which it incorporates herein by this reference.

6. BBP is seeking discovery from the Debtor and Mr. Davis, individually as the person responsible for the Debtor. The discovery sought by BBP is relevant to its claim against the Debtor, the Debtor’s assets and liabilities, and other matters raised in Debtor’s schedules, as it is permitted to do, under Bankruptcy Rule 2004.

7. The Court granted the Rule 2004 Motion on September 23, 2025, authorizing BBP to conduct an examination of Mr. Davis and the Debtor pursuant to Bankruptcy Rule 2004 and L.B.R. 2004-1; and authorizing BBP to compel the attendance of the witnesses identified in the motion and production of documents in the manner prescribed by Bankruptcy Rules 2004(c) and 9016. ECF No. 13.

8. BBP filed its notice of subpoenas to produce documents in accordance with Fed. R. Civ. P. 45(a)(4) on October 1, 2024. ECF No. 15. Copies of BBP’s subpoenas for the production of documents to the Debtor and Mr. Davis are attached at ECF No. 15-1 (the “**Document Subpoenas**”).

9. On September 30, 2025, the Debtor’s bankruptcy counsel informed BBP’s counsel that he would not accept service for the Document Subpoenas or the deposition

subpoenas (collectively, the “**Subpoenas**”) for the Debtor or Mr. Davis. Daigle Decl. ¶ 4, Ex. A at 2.

10. BBP’s process server attempted service of the Subpoenas for both the Debtor and Mr. Davis at the address of 12361 East Cornell Ave., Aurora, CO 80014. Daigle Decl. ¶¶ 5–6.

11. On October 8, 2025, the Debtor’s counsel informed BBP’s counsel that there is no longer a service address for the Debtor. *Id.* Ex. A at 1.

12. After being informed that the Debtor no longer had a valid service address, BBP made multiple attempts to serve the Subpoenas on the Debtor through its officer, Mr. Davis, and Mr. Davis, personally, at 281 Sugar Hollow Trail, Piney Flats, TN 37686, which is the same address Mr. Davis identified as his residence. Daigle Decl. ¶¶ 7–8; ECF No. 20 at 8. BBP, however, has been unable to serve either the Debtor or Mr. Davis. Daigle Decl. ¶¶ 5, 8, 12.

13. On October 7, 2025, Mr. Davis filed his Motion, seeking to limit the scope of discovery BBP is seeking under Bankruptcy Rule 2004 and raising various meritless arguments against BBP’s claim. *See generally* ECF No. 20. Mr. Davis did not confer or attempt to confer with BBP’s counsel before filing his Motion. Daigle Decl. ¶ 9.

14. Thereafter, on October 14th, Mr. Davis testified on the Debtor’s behalf at the continued section 341 meeting of creditors. *Id.* ¶ 10. BBP’s counsel attended. *Id.*

15. At the October 14th section 341 meeting, Mr. Davis agreed to accept service of the Subpoenas by certified mail. *Id.* ¶ 11. Following the meeting, BBP’s counsel sent Mr. Davis an acceptance of service for signing so that it may be filed with the Court and so that BBP may complete service of its Subpoenas. *Id.* Ex. B. Mr. Davis has not yet signed the acceptance of service. *Id.* ¶ 12.

16. To date, BBP has been unable to complete service of the Subpoenas. *Id.*

III. ARGUMENT

A. The Discovery Requested by BBP Is Within the Scope Permitted Under Bankruptcy Rule 2004 and There are No Grounds to Quash or Modify the Subpoenas.

17. Bankruptcy Rule 2004 permits the discovery into the “acts, conduct, or property or to the liability and financial condition of the debtor, or to any matter which may affect that administration of the debtor’s estate, or to the debtor’s right to discharge.” Fed. R. Bankr. P. 2004(b). The scope of a Bankruptcy Rule 2004 examination is “exceptionally broad” and “affords few of the procedural safeguards that an examination under Rule 26 of the Federal Rules of Civil Procedure does.” *In re Correra*, 589 B.R. 76, 108 (Bankr. N.D. Tex. 2018). Accordingly, it is well established that examinations under Bankruptcy Rule are “unfettered and in the nature of fishing expeditions.” *In re Enron Corp.*, 281 B.R. 836, 840 (Bankr. S.D.N.Y. 2002) (citation omitted); *see also Intercontinental Enters., Inc. v. Keller (In re Blinder, Robinson & Co., Inc.)*, 127 B.R. 267, 274 (D. Colo. 1991) (“Many courts recognize that Rule 2004 in effect authorizes a ‘fishing expedition,’ and ‘is essentially creditor and trustee oriented.’”) (citation omitted).

18. Even in the absence of an adversary proceeding or contested matter, a party-in-interest may move the court for an examination and may compel the attendance and production of documents as provided in Bankruptcy Rule 9016. *In re Patel*, No. 16-65074-LRC, 2017 Bankr. LEXIS 216, at *6 (Bankr. N.D. Ga. Jan. 26, 2017) (citing Fed. R. Bankr. P. 2004(c)). Bankruptcy Rule 9016 incorporates Rule 45 of the Federal Rules Civil Procedure, which in turn provides:

(D) Command to Produce; Included Obligations. A command in a subpoena to produce documents, electronically stored information, or tangible things requires the responding person to permit inspection, copying, testing, or sampling of the materials.

19. Bankruptcy Rule 2004 further provides that parties-in-interest have authority to conduct investigatory examinations of the debtor and other, non-debtor entities or individuals. Fed. R. Bankr. P. 2004(a), (b)(1). The term “parties-in-interest” is not defined by the Bankruptcy Code or Bankruptcy Rules, but courts have found that, in the context of chapter 7 cases like this one, chapter 7 trustees, creditors, and equity security holders are parties-in-interest. *See, e.g., In re Buick*, 174 B.R. 299, 305 (Bankr. D. Colo. 1994) (holding that a creditor, as party-in-interest, may conduct a Rule 2004 examination).

20. And Bankruptcy Rule 2004 does not place any limit on the number of sources from whom a creditor may seek information related to a debtor’s financial affairs. *In re Martines Palmeiro Constr., LLC*, 2025 Bankr. LEXIS 2121, at *10–11 (Bankr. D. Colo. Aug. 28, 2025). Because debtors often fail to maintain or produce information relevant to bankruptcy proceedings, courts routinely authorize examination of other parties that might have such information. *Id.* at *11.

21. BBP, as a creditor and party-in-interest in this bankruptcy case, is entitled to compel an examination and production of documents from the Debtor and Mr. Davis, who admits that he has information and records relevant to the Debtor’s financial affairs. *See* ECF 20 at 2 (Mr. Davis stating he “has already preserved” “loan agreements and specific financial transactions between Penobscot (and later Davis) and Astra ...”); *see also In re Mittco, Inc.*, 44 B.R. 35, 37 (Bankr. E.D. Wis. 1984) (“Bankruptcy Rule 2004(a) authorizes an examination by any party in interest. It is not limited to an examination by a bankruptcy trustee.”).

22. All requests made by BBP in the Document Subpoenas are well within the scope of what information is permissible to seek under Bankruptcy Rule 2004, as all of the requests

have a nexus with the Debtor's affairs and affect the administration of its estate. *See* ECF No. 15-1.

23. Mr. Davis does not identify specific requests made by BBP to either the Debtor or Mr. Davis to which Mr. Davis objects. *See* ECF No. 20. Instead, Mr. Davis only complains about producing "corporate records of Penobscot" and "Davis's personal records." *See id.* at 2. But BBP has not requested production of Penobscot's corporate records. *See* ECF No. 15-1 at 6-9, 14-15. And BBP only seeks personal records from Mr. Davis as it relates to the Debtor and the administration of the Debtor's bankruptcy estate. *See id.* at 14-15 (requesting documents related to any transfers of the Debtor's property to Mr. Davis, either directly or through other entities [Request Nos. 1-4, 5-6, 8-12], documents related to the debt the Debtor alleges BBP owes to the Debtor [Request Nos. 5-7], documents related to BBP's claim against the Debtor [Request Nos. 5-11], and documents related to Penobscot's claim against the Debtor [Request Nos. 13-14]). BBP is entitled to the records Mr. Davis has that are relevant to the Debtor's assets, liabilities, and other financial affairs, as well as BBP's claim against the Debtor. Due to the breadth of permissible discovery under Rule 2004, the discovery sought by BBP should not be limited to "transactional records and communications between" the Debtor, Penobscot, and Mr. Davis, as Mr. Davis contends. *See* ECF No. 20-1 at 2.

24. Nor should the Court limit the temporal scope of BBP's document requests. Certain of BBP's document requests seek documents that existed within the five-year period prior to the petition date. *See* ECF No. 15-1 at 6-9 (Request Nos. 1-2, 7, 14-17, 21-22, 27-30), 14-15 (Request Nos. 1-2, 8, 10). This time period is reasonable and necessary to fully understand the Debtor's affairs, including transfers of funds by and between the Debtor, Mr.

Davis, and others; any misappropriation of BBP's investment funds; and the scope of the Debtor's assets, among other things.

25. Mr. Davis fails to demonstrate any undue burden in responding to BBP's Document Subpoenas, as is required of him. *See, e.g., Jobin v. Resolution Tr. Corp.*, 156 B.R. 834, 838 (D. Colo. 1993) (“[T]he Bank [as the party moving to quash] has not indicated that its records would be too voluminous to search or that any other specific problem complicates its disclosure.”); *In re Vantage Petroleum Corp.*, 34 B.R. 650, 652 (Bankr. E.D.N.Y. 1983) (denying a motion to quash denied where, among other factors, movants did not show that such production would be oppressive or burdensome). Instead, Mr. Davis makes conclusory arguments that the Document Subpoenas are “overbroad” and argues (without any legal basis) that BBP's documents requests should be limited by the statutory lookback periods for sections 547 and 548. *See* ECF No. 20 at 1–2, 4. Sections 547 and 548 are not applicable to BBP's Rule 2004 discovery, and the Court should also deny Mr. Davis's request to limit the temporal scope of BBP's discovery.

B. There is No Basis for a Protective Order Limiting the Use of the Discovery Obtained by BBP.

26. Under Fed. R. Civ. P. 26(c), made applicable only in contested matters through Bankruptcy Rule 9014(c), a bankruptcy court may issue, for good cause, a protective order regarding discovery “to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense including . . . requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way.” Fed. R. Civ. P. 26(c)(1)(G).

27. The decision to issue a protective order rests within the sound discretion of the trial court. *Wang v. Hsu*, 919 F.2d 130, 130 (10th Cir. 1990). “Rule 26(c) confers broad

discretion on the trial court to decide when a protective order is appropriate and what degree of protection is required.” *Bustos v. United States*, 257 F.R.D. 617, 621 (D. Colo. 2009) (citing *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 36 (1984)); *see also Dove v. Atl. Capital Corp.*, 963 F.2d 15, 19 (2d Cir. 1992) (“The grant and nature of protection is singularly within the discretion of the district court”) (citation omitted). The party seeking to obtain a protective order bears the burden of demonstrating that there is good cause for the order. *See EEOC v. Outback Steakhouse of Fla., Inc.*, 251 F.R.D. 603, 608 (D. Colo. 2008). To establish good cause, the movant “must show that disclosure will result in a clearly defined and serious injury” to him. *Klesch & Co. v. Liberty Media Corp.*, 217 F.R.D. 517, 524 (D. Colo. 2003). The movant cannot rely on “conclusory statements.” *Bustos*, 257 F.R.D. at 621 (citing *Klesch*, 217 F.R.D. at 524).

28. Mr. Davis fails to set forth any particularized argument showing the specific need for a protective order or injury needing protection, other than making conclusory contentions that BBP’s requested discovery is to “harass” him or “to gain discovery for collateral litigation,” in which BBP is not involved. *See* ECF No. 20 at 2, 3. Although it is curious why Mr. Davis is most concerned about the other litigation filed against him to support the entry of a protective order, contrary to Mr. Davis’s contentions, BBP is not seeking the documents requested in the subpoenas to either harass him or to support claims asserted against him by other parties. *See id.*³ Instead, BBP is seeking the discovery to investigate into the Debtor’s financial affairs and the representations the Debtor made in its schedules and statements.

29. It is well-settled that a Rule 2004 exam is a “pre-litigation investigatory tool used to determine whether a sufficient basis exists to take subsequent action such as the filing of a

³ BBP is a not a party to any of the California litigation and is not attempting to “short-circuit the ordinary limits of state-court discovery.” *See* ECF No. 20 at 3; *see also* ECF No. 1 at 19–20 (listing the legal actions within one year of the petition date).

substantive motion or complaint.” *In re Underwood*, 457 B.R. 635, 642 (Bankr. S.D. Ohio 2011); *accord In re Martino*, No. 11-31115 MER, 2011 Bankr. LEXIS 4560, at *6 (Bankr. D. Colo. Nov. 17, 2011) (a primary purpose of Rule 2004 is as a pre-litigation device). The Court should not impose any limitations on what BBP may do with the discovery it obtains from either the Debtor or Mr. Davis. Accordingly, the Court should deny Mr. Davis’s request for a protective order.⁴

C. The Court Should Deny Mr. Davis’s Other Requested Relief.

30. In its Rule 2004 Motion, BBP provided its factual background of its claim against the Debtor to establish its standing and entitlement to discovery under Bankruptcy Rule 2004 as a creditor. *See* ECF No. 12. While Mr. Davis may take issue with BBP’s claim against the Debtor, Mr. Davis does not actually dispute that BBP is a creditor of the Debtor. *See generally* ECF No. 20. Nor does Mr. Davis establish any basis for this Court to find any bad faith on the part of BBP or BBP’s counsel. *See id.* at 3–4. Accordingly, any relief sought by Mr. Davis in connection with how BBP explained its claims must be denied.

31. Additionally, Mr. Davis requests the Court to make findings that it cannot make on the record before it. Neither BBP nor its counsel made any “defamatory allegations” against the Debtor or Mr. Davis; and the Court cannot conclude that they did. Nor has Mr. Davis provided anything to substantiate his claims that he has suffered any harm. *See* ECF No. 20 at 2-

⁴ As a procedural matter, Mr. Davis did not first request a conference with the Court before filing the Motion, as required under Rule 26 of the Federal Rules of Civil Procedure, made applicable in contested matters through Bankruptcy Rule 9014(c). *See* Fed. R. Civ. P. 26(c)(1) (the motion for a protective order “must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action.”). Mr. Davis did not confer nor made any attempt to confer with the undersigned in an effort to resolve the dispute before filing his Motion as required. *See* Daigle Decl. ¶ 9. Accordingly, the Motion should also be denied because Mr. Davis did not comply with this applicable rule.

4; ECF No. 20-1 at 1–2. Accordingly, the Court must deny making any findings and granting any relief, as requested by Mr. Davis regarding the same.

IV. CONCLUSION

For the foregoing reasons, BBP respectfully requests that the Court deny Mr. Davis's Motion and all requested relief therein.

Dated October 21, 2025.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the date of this certificate, a true and correct copy of the RESPONSE OF BALLISTIC BARRIER PRODUCTS INC. TO JAMES MICHAEL DAVIS'S OBJECTION AND MOTION FOR PROTECTIVE ORDER TO BALLISTIC BARRIER PRODUCTS INC.'S MOTION FOR RULE 2004 EXAMINATION was electronically filed with the Clerk of the Court using the CM/ECF System and served as follows:

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DATED this 21st day of October, 2025.

By /s/ Lesley Smith

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